

§ 137.1

42 CFR Ch. I (10–1–10 Edition)

137.379 Do Davis-Bacon wage rates apply to construction projects performed by Self-Governance Tribes using Federal funds?

Subpart O—Secretarial Responsibilities

BUDGET REQUEST

137.401 What role does Tribal consultation play in the IHS annual budget request process?

REPORTS

137.405 Is the Secretary required to report to Congress on administration of Title V and the funding requirements presently funded or unfunded?

137.406 In compiling reports pursuant to this section, may the Secretary impose any reporting requirements on Self-Governance Tribes, not otherwise provided in Title V?

137.407 What guidelines will be used by the Secretary to compile information required for the report?

Subpart P—Appeals

137.410 For the purposes of section 110 of the Act [25 U.S.C. 450m–1] does the term “contract” include compacts, funding agreements, and construction project agreements entered into under Title V?

POST-AWARD DISPUTES

137.412 Do the regulations at 25 CFR Part 900, Subpart N apply to compacts, funding agreements, and construction project agreements entered into under Title V?

PRE-AWARD DISPUTES

137.415 What decisions may an Indian Tribe appeal under §§ 137.415 through 137.436?

137.416 Do §§ 137.415 through 137.436 apply to any other disputes?

137.417 What procedures apply to Interior Board of Indian Appeals (IBIA) proceedings?

137.418 How does an Indian Tribe know where and when to file its appeal from decisions made by IHS?

137.419 What authority does the IBIA have under §§ 137.415 through 137.436?

137.420 Does an Indian Tribe have any options besides an appeal?

137.421 How does an Indian Tribe request an informal conference?

137.422 How is an informal conference held?

137.423 What happens after the informal conference?

137.424 Is the recommended decision from the informal conference final for the Secretary?

137.425 How does an Indian Tribe appeal the initial decision if it does not request an informal conference or if it does not

agree with the recommended decision resulting from the informal conference?

137.426 May an Indian Tribe get an extension of time to file a notice of appeal?

137.427 What happens after an Indian Tribe files an appeal?

137.428 How is a hearing arranged?

137.429 What happens when a hearing is necessary?

137.430 What is the Secretary’s burden of proof for appeals covered by § 137.145?

137.431 What rights do Indian Tribes and the Secretary have during the appeal process?

137.432 What happens after the hearing?

137.433 Is the recommended decision always final?

137.434 If an Indian Tribe objects to the recommended decision, what will the Secretary do?

137.435 Will an appeal adversely affect the Indian Tribe’s rights in other compact, funding negotiations, or construction project agreements?

137.436 Will the decisions on appeal be available for the public to review?

APPEALS OF AN IMMEDIATE REASSUMPTION OF A SELF-GOVERNANCE PROGRAM

137.440 What happens in the case of an immediate reassumption under section 507(a)(2)(C) of the Act [25 U.S.C. 458aaa–6(a)(2)(C)]?

137.441 Will there be a hearing?

137.442 What happens after the hearing?

137.443 Is the recommended decision always final?

137.444 If a Self-Governance Tribe objects to the recommended decision, what action will the Secretary take?

137.445 Will an immediate reassumption appeal adversely affect the Self-Governance Tribe’s rights in other self-governance negotiations?

EQUAL ACCESS TO JUSTICE ACT FEES

137.450 Does the Equal Access to Justice Act (EAJA) apply to appeals under this subpart?

AUTHORITY: 25 U.S.C. 458 *et seq.*

SOURCE: 67 FR 35342, May 17, 2002, unless otherwise noted.

Subpart A—General Provisions

§ 137.1 Authority, purpose and scope

(a) Authority. These regulations are prepared, issued and maintained with the active participation and representation of Indian Tribes, Tribal organizations and inter-Tribal consortia pursuant to the guidance of the negotiated rulemaking procedures required by section 517 of the Act [25 U.S.C. 458aaa–16].

(b) Purpose. These regulations codify rules for self-governance compacts, funding agreements, and construction project agreements between the Department of Health and Human Services (DHHS) and Self-Governance Tribes to implement sections 2, 3, and 4 of Pub. L. 106-260.

(c) Scope. These regulations are binding on the Secretary and on Indian Tribes carrying out programs, services, functions, and activities (or portions thereof) (PSFAs) under Title V except as otherwise specifically authorized by a waiver under section 512(b) of the Act [25 U.S.C. 458aaa-11(b)].

(d) Information collection. The information collection requirements have been submitted to the Office of Management and Budget (OMB) and are pending OMB approval.

§ 137.2 Congressional policy.

(a) According to section 2 of Pub. L. 106-260, Congress has declared that:

(1) The Tribal right of self-government flows from the inherent sovereignty of Indian Tribes and nations;

(2) The United States recognizes a special government-to-government relationship with Indian Tribes, including the right of the Indian Tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian Tribes;

(3) Although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded Tribal Self-Governance and dominates Tribal affairs.

(4) The Tribal Self-Governance Demonstration Project, established under title III of the Indian Self-Determination Act (ISDA) [25 U.S.C. 450f note] was designed to improve and perpetuate the government-to-government relationship between Indian Tribes and the United States and to strengthen Tribal control over Federal funding and program management;

(5) Although the Federal Government has made considerable strides in improving Indian health care, it has failed to fully meet its trust responsibilities and to satisfy its obligations to the Indian Tribes under treaties and other laws; and

(6) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that transferring full control and funding to Tribal governments, upon Tribal request, over decision making for Federal PSFAs:

(i) Is an appropriate and effective means of implementing the Federal policy of government-to-government relations with Indian Tribes; and

(ii) Strengthens the Federal policy of Indian self-determination.

(b) According to section 3 of Pub. L. 106-260, Congress has declared its policy to:

(1) Permanently establish and implement Tribal Self-Governance within the DHHS;

(2) Call for full cooperation from the DHHS and its constituent agencies in the implementation of Tribal Self-Governance to—

(i) Enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian Tribes;

(ii) Permit each Indian Tribe to choose the extent of its participation in self-governance in accordance with the provisions of the ISDA relating to the provision of Federal services to Indian Tribes;

(iii) Ensure the continuation of the trust responsibility of the United States to Indian Tribes and Indians;

(iv) Affirm and enable the United States to fulfill its obligations to the Indian Tribes under treaties and other laws;

(v) Strengthen the government-to-government relationship between the United States and Indian Tribes through direct and meaningful consultation with all Tribes;

(vi) Permit an orderly transition from Federal domination of programs and services to provide Indian Tribes with meaningful authority, control, funding, and discretion to plan, conduct, redesign, and administer PSFAs that meet the needs of the individual Tribal communities;

(vii) Provide for a measurable parallel reduction in the Federal bureaucracy as programs, services, functions, and activities (or portion thereof) are assumed by Indian Tribes;